

Disposition of the Independent Review Panel



Complainant: NAACP

IRP Case: A2004.293 & A2004.294

Date: January 6, 2006

MDPD Case: IA 2004-0356

The Independent Review Panel met on December 22, 2005 for the purpose of publicly reviewing complaints made by NAACP against the Miami-Dade Police Department (MDPD) and the department's response to that complaint. The NAACP requested that the IRP investigate the use of taser guns on a six-year-old boy and a twelve-year-old girl.

The 6-year-old boy

1-A. Incident

The principal of Kelsy Pharr Elementary School requested police assistance for a disruptive student who had cut his hand with a broken glass picture frame and was holding a piece of broken glass.

Officer Marie Abbott and Officer Yolanda Rivera attempted to reason with the student, but he refused to drop the piece of glass and tightened his grip on it. The MDPD officers, after consulting their supervisor, determined that tasing was the best intervention to gain control of the child. The child was subsequently transported to JMH/Crisis and admitted under the provisions of the Baker Act.

1-B. Allegations for 6-year-old:

1. Officer Marie Abbott overreacted by utilizing a Taser on a six-year-old.
2. Sergeant Michael Laurent failed to provide proper supervisory direction when authorizing the use of a Taser on a six-year-old child.

1-C. Disposition for the 6-year-old

The Panel found the allegations to be **EXONERATED**. The incident occurred, however the officers acted within the MDPD policy in place at the time of the decision to utilize the Electronic Control Device (ECD).*

1-D. Other Findings in the Case of the 6-year-old

1. MDPD personnel took discretionary action even though a school board police officer was available to handle the call.
2. The officer who removed the barbed probes from the 6-year-old child was not trained as required by policy.
3. The presence of blood and an unknown risk of HIV-AIDS contamination played a significant role in the decision to deploy the ECD* in lieu of alternatives.

*Taser is a brand name for an Electronic Control Device (ECD).

The 12-year-old girl

2-A. Incident

The girl was skipping school and drinking when Miami-Dade Police Officer William Nelson confronted her. Officer Nelson stated that when the girl ran from him, he chased her through a parking lot, and then zapped her with the taser when she began to run into traffic.

2-B. Allegations for 12-year-old

Officer William Nelson used excessive force when he tased a twelve-year-old girl while she was fleeing.

2-C. Disposition for the 12-year-old

1. The Panel found that the allegation that Officer William Nelson overreacted when he chased and then tased the 12-year-old girl to be **SUSTAINED**.
2. MDPD was quick to impose discipline on the involved officer. Officer Nelson received a written reprimand ten days after the incident.

The Independent Review Panel concluded the complaint on December 22, 2005.

Independent Review Panel

Committee Recommendation to the Panel

October 27, 2005

Complaint: A2004.293 & A2004.294

MDPD Case: IA 2004-0356

Complainant: NAACP

Accused Party: Miami-Dade Police Department (MDPD), Officer Marie Abbott, Sergeant Michael Laurent and Officer William Nelson

Date Complaint Received: November 15, 2004

Materials Reviewed: Correspondence, IA Case 2004-0356, staff notes and committee notes

Committee: Doris Shellow, Panel Member; Dr. Eduardo Diaz, Executive Director; Carol Boersma, Executive Assistant to the Director, Linda Pierre, Conflict-Resolution Specialist

Meeting Date: August 16, 2005

Present: From MDPD Professional Compliance Bureau: Sgt. Jose Colon, Sgt. Silvio Alvarez, and Sgt. Alois Stier

On November 12, 2004, the NAACP requested that the IRP investigate and review the use of a taser gun on a six-year-old boy and a twelve-year-old girl. The Miami-Dade NAACP had serious concerns with the use of tasers on young children and suggested a thorough review of alternative procedures and policies.

Complaint 6-year-old boy: On October 20, 2004, at approximately 1:00pm., Northside District Officer Marie Abbott responded to a call for assistance at Kelsy Pharr Elementary School. The principal stated that a disruptive student was upset at being in her office, so she asked the school security officer to take the student into the empty assistance principal's office across the hall, and remain with him until he calmed down.

Shortly after, the principal heard the sound of breaking glass coming from the office and went to ascertain what had occurred. The principal observed a picture frame on the floor and noticed that the student had cut his hand with the broken glass frame and held a piece of broken glass.

Officer Abbott, along with Northside District Officer Yolanda Rivera, and Miami-Dade School Board Officer Valarie Straten arrived and attempted to reason with the student, but he refused to drop the piece of glass and tightened his grip on it. The MDPD officers determined that tasing was the best intervention to gain control of the child. The child was subsequently transported to JMH/Crisis and admitted under the provisions of the Baker Act.

Allegations for 6-year-old:

1. On Wednesday, October 20, 2004, Officer Abbott overreacted, by utilizing a Taser on a six-year-old.
2. On Wednesday, October 20, 2004, Sergeant Laurent failed to provide proper supervisory direction, when authorizing the use of a Taser on a six-year-old child.

Department Response-IA Investigation 2004-0346 (6-year-old boy):

The conclusion of the complaint investigator was that both Officer Abbott and Sergeant Laurent acted within the established departmental guidelines for Taser usage that were in place at the time of the incident (See Attachment A). It was the opinion of the investigator that no further investigation was required by the Professional Compliance Bureau.

Officer Abbott's statement

Officer Marie Abbott stated that she began discussing options as to how to handle the situation with Officer Rivera. Officer Abbott stated that they discussed using a baton to strike the child but felt that the strike would probably break a bone or cause injury. Officer Abbott stated that Officer Rivera then contacted Sergeant Laurent and advised him of the situation. Officer Rivera advised Sergeant Laurent that the child was six years old and related the circumstances involved. Officer Abbott stated that Sergeant Laurent advised Officer Rivera that if you have to, go ahead and tase him.

Officer Abbott stated that she began explaining the Taser to the child in the attempt to reason with him. Officer Abbott stated that she told the child that the Taser "hurts" but he continued to be non-responsive. Officer Abbott stated that she then removed her taser from its holster and pointed it at the child, illuminating the Light Emitting Diode (LED) light on him. Officer Abbott stated that she continued to tell the child that the Taser hurts in an attempt to get him to drop the glass, but he continued to be non-responsive, as if he were in a trance.

Officer Abbott stated that she was approximately two arms lengths away from the child when she deployed the Taser. Officer Rivera grabbed the child immediately after the Taser was activated and prevented him from falling to the ground. Officer Abbott stated that one of the probes from the Taser struck the child in the abdomen, and the other one got hooked on his shirt. Officer Abbott stated that after the taser was activated, the child screamed, "I'll put it down," and then vomited. Officer Abbott stated that the child was placed in a chair, and Miami-Dade Fire Rescue responded and treated him.

Sergeant Laurent's Statement

Sergeant Laurent stated that during the discussions with the two officers, and after being given all the details, he felt that deployment of the Taser was the best option available. He stated the student was armed with a piece of broken glass, was cut and had blood smeared on him. Sergeant Laurent stated that he felt other options, such as striking the student with a baton would cause greater injury to him. He also stated that the use of the Taser would prevent injury to the officers from the glass or from exposure to blood-borne diseases.

Sergeant Laurent stated that this was the first instance that he had been contacted by a subordinate to discuss using a taser. After considering the departmental taser guidelines, Sergeant Laurent informed Officer Rivera that if they had to use the taser, they were to plan it so they were close enough to the student to grab him after deployment in order to take the glass away and prevent him from falling.

Complaint 12-year-old girl: Miami-Dade Police Officer William Nelson tased a twelve-year-old girl, after he caught her skipping school and drinking on November 5, 2004. Officer Nelson stated that when the twelve-year-old girl ran from him, he chased her through a parking lot, and then zapped her with the taser when she began to run into traffic.

Allegation for twelve-year-old:

Miami-Dade Police Officer William Nelson used excessive force when he tased a twelve-year-old girl while she was fleeing.

Department Response 12-year-old: On November 15, 2004, Officer Nelson received a written reprimand for violating MDPD's Taser policy. Officer Nelson later retired without signing the Disciplinary Action Report (DAR). On December 3, 2004 MDPD released a statement, advising that the involved District has reviewed the incident involving the Taser usage on the 12-year-old, and corrective action was initiated, and therefore, the IA Section would not be conducting an investigation into the incident.

Committee Remarks: The meeting was scheduled after consulting with NAACP past President Dr. Brad Brown as to time and date. Dr. Brown was not present.

Concerns about MDPD "Taser" policy

Dr. Diaz stated that once these cases hit the press, many people became concerned about the policy on tasing children. Dr. Diaz advised the committee that as a result, MDPD changed its taser policy. Dr. Diaz stated that the last version of the taser policy did make reference to the size and height issues regarding who is susceptible to tasing, but did not prohibit tasing children.

Dr. Diaz shared his understanding of the two cases. Dr. Diaz stated that in the case of the 12-year-old girl, the police department immediately responded to the use of the taser. Discipline was imposed, and the subject officer resigned. Dr. Diaz stated that in the case of the six-year old, it was a tough call. The child held broken glass, was bleeding and not responsive to the officers.

Concerns about MDPD's Investigation

Sgt. Al Stier stated that he conducted the inquiry concerning the six-year-old boy. Sgt. Al Stier stated that after interviewing the people that were involved, including the officers that deployed the taser and the Supervisor who authorized the use of the taser, he found no violation of MDPD's taser policy. Sgt. Stier stated that the officers acted within the guidelines that were in place at the time. St. Stier stated that since the incident, MDPD's Taser policy has been modified. (See Attachment B)

Concerns about using the Taser on children

Dr. Diaz provided a brief explanation about the modification of MDPD's "taser" policy. The initial policy was modified and is currently being modified again. Dr. Diaz stated that the policy now contains more explanatory language regarding when a taser can be used. Dr. Diaz stated that in Miami-Dade County, there are police departments that restrict using tasers on children; however, the MDPD policy does not make reference to "children."

Concerns about Compliance with policy

Dr. Diaz was concerned about the police officer who removed the probes from the child, because that officer was not trained as taser certified, as required by policy. This policy violation was not addressed by MDPD.

Concerns about Police Response

Dr. Diaz stated that he was surprised to see that a school board police officer had declined to take action, and allowed MDPD officers to handle the call, even though it was school board jurisdiction. Sgt. Stier stated an MDPD officer may respond to a call in a school. In this case, the officer chose to respond because she was in close proximity and because of the nature of the incident. Sgt. Stier stated a 911 call from a school goes to the MDPD "911" dispatch because the school board is on the same radio frequency as MDPD.

Concerns about School Security Officer

Ms. Shellow mentioned that the investigation report noted that the principal had asked a school security officer to take the child into an unoccupied office, and that is where he broke the glass frame. Dr. Diaz stated that it was obvious that the child was upset at the security guard. Dr. Diaz added that asking a security guard with little training to supervise alone a potentially violent emotionally disturbed child, was not a wise decision.

Committee Findings:

A. Complaint A 2004.293 (6-year-old boy)

The committee found that the allegations that Officer Marie Abbott overreacted utilizing a Taser on a 6-year-old and Sgt. Michael Laurent failed to provide proper supervisory direction when authorizing the use of a Taser on a 6-year-old child to be **NOT SUSTAINED**. The incident occurred, however the officers acted within the policy in place at the time of the decision to utilize the Electronic Control Device (ECD).*

B. Complaint A2004.293 (12-year-old girl)

1. The committee found that the allegation that Officer William Nelson overreacted when he chased and then tased 12-year-old girl to be **SUSTAINED**.
2. MDPD was quick to impose discipline on the involved officer. Officer Nelson received a written reprimand ten days after the incident.

* Taser is a brand name for an Electronic Control Device (ECD)

C. Other Findings:

1. MDPD personnel took discretionary action even though a school board police officer was available to handle the call.
2. The officer who removed the barbed probes from the 6-year-old child was not trained as required by policy.
3. The presence of blood and unknown risk of HIV-AIDS contamination played a significant role in the decision to deploy the ECD in lieu of alternatives.

Recommendations:

1. That MDPD modify policy to make specific reference to “children” and to specify that ECD is to be used on the very young only in exceptional cases.
2. That the Panel adopt the committee findings and recommendations, and conclude the complaint.